

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

In re:

Jacob Hans Andersen

Debtor.

FILED
2016 JUN 24 AM 10:17
U.S. BANKRUPTCY
DISTRICT OF SOUTH CAROLINA
Case # 16-00966-DEB
Chapter 7

**LIMITED OBJECTION TO NOTICE AND
APPLICATION FOR SALE OF PROPERTY**

RREF II CER CO ACQUISITIONS, LLC ("**RREF**") files this limited objection (the "**Objection**") to the Notice and Application for Sale of Property [ECF No. 28] (the "**Sale Motion**") filed by the chapter 7 trustee, Michelle Vieira (the "**Trustee**") and states as follows:

1. On December 5, 2014, a judgment (the "**Judgment**") was entered on behalf of CertusBank, N.A. and against Jacob Andersen (the "**Debtor**") in the amount of \$30,216.83. A copy of the Judgment is attached hereto as **Exhibit A**.

2. On December 11, 2014, the Judgment was indexed by clerk of the court as Judgment Number 2014CP1005282. *See* Index Search, attached as **Exhibit B**.

3. As such, the Judgment became a lien against any real property owned by the Debtor in Charleston County. S.C.Code Ann. § 15-35-810; *Wells ex rel A.C. Sutton & Sons, Inc. v. Sutton*, 299 S.C. 19, 22, 382 S.E.2d 14, 16 (Ct.App.1989). Such lien extends to the Debtor's interest in 52 Spring Street (the "**Real Property**").

4. The interest of CertusBank N.A. in the Judgment was subsequently purchased by RREF.

5. On March 1, 2016 (the "**Petition Date**"), the Debtor filed his petition under chapter 7, and the Trustee was appointed as trustee.

6. On April 15, 2016, the Debtor moved to avoid RREF's lien against the Real Property pursuant to 11 U.S.C. §522(f) [ECF No. 11]. That

motion was withdrawn on April 27, 2016, following the Debtor's realization that the lien of the Judgment did not impair his exemption [ECF No. 19].

7. On May 23, 2016, RREF filed its proof of claim no. 1-2, asserting a fully secured claim in the amount of \$36,952.29 as of the Petition Date, secured by the Real Property.

8. On June 6, 2016, the Trustee filed the Sale Motion. RREF was not served with the Sale Motion. The Sale Motion requests to sell free and clear of all liens, and to pay "all reasonable and customary costs of sale at closing, including but not limited to mortgages, tax liens, broker fees, attorney fees and real estate taxes."

9. The proposed order, however, does not purport to satisfy the lien of the Judgment at closing. While a free and clear sale is clearly allowed under §363(f)(3) (at least if notice had been sufficient under Fed. R. Bankr. P. 2002(a)(2)), there is no reason why the Judgment lien should not be satisfied as well, especially since it continues to bear interest at 18% pursuant to 11 U.S.C. § 506(b).

WHEREFORE, RREF requests that the Sale Motion be granted, but that such Order (1) require the Trustee to satisfy the Judgment lien at closing, plus post-petition interest, fees and costs, and (2) grant such other and further relief as is just and appropriate.

Respectfully submitted,

/s/ Lawrence Pecan

Lawrence Pecan

Okla. Bar. No. 30901

Rialto Capital Advisors, LLC

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Miami Florida 33172

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Lawrence.Pecan@RialtoCapital.com

In-House Counsel

(pro hac vice motion forthcoming)

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

CertusBank, National Association,)

Plaintiff,)

vs.)

Andersen Heating and Air Conditioning)
LLC and Jake Andersen, a/k/a)
Jacob Andersen,)

Defendants.)

IN THE COURT OF COMMON PLEAS

ORDER FOR JUDGMENT

2014-CP-10-5282

FILED
2014 DEC -5 PM 3:45
JULIE J. ARMSTRONG
CLERK OF COURT

Upon Affidavit of Default and on Motion of Craig H. Allen, P.A., Attorneys for Plaintiff, I find that the Defendants to be in default in this action, and therefore,

IT IS ORDERED that the Plaintiff in the above-entitled action have judgment against the Defendants, Andersen Heating and Air Conditioning LLC and Jake Andersen, a/k/a Jacob Andersen, for the sum of \$22,457.47, plus interest of \$2,723.22, plus reasonable attorney's fees of \$5,036.14 making a total of Thirty Thousand Two Hundred Sixteen and 83/100 (\$30,216.83) Dollars, and for the costs of this action. Post judgment interest shall accrue at the rate of 18% per annum pursuant to the contract between the parties. Turner Coleman, Inc. v. Ohio Const. & Engineering, Inc., 272 S.C. 289, 251 S.E.2d 738 (1979).

IT IS SO ORDERED.

Charleston, South Carolina

December 5, 2014

Judge

S/R. Martley Dennis, Jr.

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., C.S. & F.C.
By Angela Rigney
DEPUTY CLERK



**Charleston County
Summary (Magistrate)
Court Case Details
Public Index**

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R. E. Michel Company, L L C VS Andersen Heating And Air Conditioning LLC , defendant, et al

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|----------------------|------------------|-------------------|---------------------|--------------------|------------------|
| Case Number: | 2015CV1010600284 | Court Agency: | Small Claims - City | Filed Date: | 04/03/2015 |
| Case Type: | Civil | Case Sub Type: | Summons & Complaint | File Type: | |
| Status: | Non Service | Assigned Judge: | Guerard, Henry W | | |
| Disposition: | Non Service | Disposition Date: | 07/30/2015 | Disposition Judge: | Guerard, Henry W |
| Original Source Doc: | | Original Case #: | | | |
| Judgment Number: | 2015CV1010600284 | Court Roster: | | | |

Case Parties Judgments Tax Map Information Associated Cases Actions Financials

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|------------------|-----------------------------|--------------|---|---------------|---------------|---------------------------|---------------|
| For: | R. E. Michel Company, L L C | Against: | Andersen Heating And Air Conditioning LLC | Judg. Amount: | \$0.00 | Judgment Date: | 07/30/2015 |
| Description: | Judgment/Judgment | Disposition: | | Disp. Date: | | Date Entered/Last Changed | 07/30/2015 -- |
| Notes: | None | | | | | | |
| Judgment Details | | | | | | | |
| Claims Code | | Detail Desc. | | | Detail Amount | | Detail Date |
| None | | | | | | | |
| For: | R. E. Michel Company, L L C | Against: | Andersen, Jacob | Judg. Amount: | \$0.00 | Judgment Date: | 07/30/2015 |
| Description: | Judgment/Judgment | Disposition: | | Disp. Date: | | Date Entered/Last Changed | 07/30/2015 -- |
| Notes: | None | | | | | | |
| Judgment Details | | | | | | | |
| Claims Code | | Detail Desc. | | | Detail Amount | | Detail Date |
| None | | | | | | | |

Extremely Urgent

ORIGIN ID:CTYA (305) 485-2555
NINETTE MINGUEZ
RIALTO CAPITAL
790 NW 107TH AVENUE
SUITE 400
MIAMI, FL 33172
UNITED STATES US

SHIP DATE: 23JUN16
ACTWGT: 0.50 LB
CAD: 100676281/INET3730

BILL SENDER

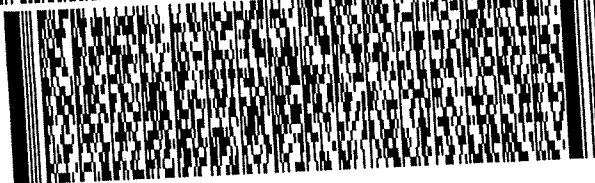
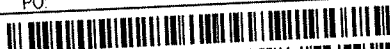
TO CLERK FO COURT
US BANKRUPTCY COURT
1100 LAUREL ST

COLUMBIA SC 29201

(305) 485-2555
INV:
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REF: JACOBS HANS ANDERSEN

DEPT: 5200018



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